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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,871	07/31/2003	Sharon Mi Lyn Tan	03-044	1798

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

EXAMINER

AZPURU, CARLOS A

ART UNIT	PAPER NUMBER
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1615

MAIL DATE	DELIVERY MODE
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11/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/631,871	Applicant(s) TAN, SHARON MI LYN	
	Examiner Carlos A. Azpuru	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☐ Claim(s) 1-5 and 7-21 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of the amendment filed 09/13/2007.

The following rejection is maintained in this action. Note that the header should read Unemura et al in view of Trogolo et al , both in view of McGlothlin et al. The statement of the rejection has not been changed:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unemura et al (4,902,503) in view of Trogolo et al (US2003/0118664), both in view of McGlothlin et al (6,329,444).

The inclusion of antimicrobials such as silver in both natural and synthetic rubbers is disclosed by Unemura et al (see Abstract; claims). Heat curing is described at col. 5, lines 61-64. Unemura et al does not teach the encapsulation of the incorporated antimicrobials.

Trogolo teaches the microencapsulation of antimicrobial agents using hydrophilic polymers (see Abstract). The polymers used for encapsulation are listed from [0050] – [0065]. The antimicrobial and encapsulating polymer are blended together at [0066] to create a dispersed bioactive within the microcapsule. The inclusion of zeolite containing silver ions is disclosed at [0040]. Microcapsule diameter is disclosed at [0057] and clearly overlaps. Trogolo et al lacks a specific teaching of adding the antimicrobial microparticles to a rubber, but has a generic teaching of using them in polymers generically [0068]. Those of ordinary skill would have found it well within their skill to microencapsulate the antimicrobial found in Unemura et al in view of the teachings of Trogolo et al. which discloses the use of antimicrobial microparticles in various polymers.

Neither patent discloses that medical devices can be made from natural and synthetic rubbers, and additionally, the these rubbers can be dip molded. McGlothlin et al disclose both (see Abstract; col. 7, lines 45-49). Therefore, it would have been within the skill of the ordinary practitioner to microencapsulate antimicrobials in a latex as taught by Unemura et al in view of Trogollo et al, and further to form the instantly claimed medical devices through dip molding as taught by McGlothlin et al with a reasonable expectation of similar antimicrobial results. The instantly claimed latex with incorporated antimicrobial microparticles and method of making said latex would have therefore been obvious to one of ordinary skill at the time of invention given the teachings of Unemura et al in view of Trogolo et al, both in view of McGlothlin et al .

Response to Arguments

Applicant's arguments filed 09/13/2007 have been fully considered but they are not persuasive.

Applicant argues that Unemura et al does not disclose the encapsulated materials of the instant claims. The examiner agrees and this was stated clearly at page 3 of the rejection. Unemura et al was merely used for its broad disclosure of the incorporation of antimicrobials into latex. While applicant argues that Unemura et al requires dissolved silver, however, since the reference does not include a teaching of microencapsulation, this is understood. Again, the reference merely cites that such ingredients are well know additions to latex polymers.

Applicant further argues that Trogolo et al Does not teach latex specifically. Again, the examiner agrees as this was clearly stated at page 3 of the rejection. As stated therein, the reference is relied upon for its generic teaching that antimicrobials are known to be microencapsulated into hydrophilic polymers within various polymer matrices. And while Trogolo et al does not include a teaching of curing, it is relied upon for its broader teaching of microencapsulating such agents in a polymer matrix. As such, those of ordinary skill would have found it well within their skill to

microencapsulate the antimicrobials disclosed in the Unemura et al reference using a hydrophilic polymer.

It is the McGlothlin et al reference which specifically recites the combination of latex microencapsulated antimicrobials as well as dipping of the device to form the coating. So that the ordinary practitioner would have been able to combine these teachings to not only microencapsulate the antimicrobials of Unemura et al as suggested by Torgolo et al, but to specifically microencapsulate using latex as taught by McGlothlin et al. As such, the instant invention would have been obvious to one of ordinary skill at the time of invention given the teachings of Unemura et al in view of Torgolo et al, both in view of McGlothlin et al..

Allowable Subject Matter

Claim 6 is allowed.

Claim 22 is objected to as dependent upon a rejected base claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

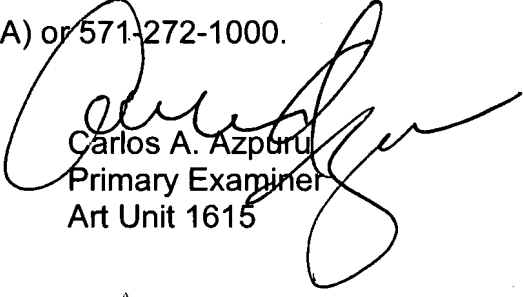
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is (571) 272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Carlos A. Azpuru
Primary Examiner
Art Unit 1615

caz